REMARKS

Claims **1-26** were pending in this application. According to the July 19, 2006 Office Action, claims **4-13** and **17-26** were rejected and claims **1-3** and **14-16** were withdrawn from consideration.

We have amended independent claims **4** and **17**, have amended dependent claims **5-13** and **18-26**, have canceled claims **1-3** and **14-16**, and have added new dependent claims **27-46**. The amendments do not introduce any new matter.

Accordingly, independent claims **4** and **17** and dependent claims **5-13** and **18-46** are under consideration.

Summary of Claim Amendments

We have amended independent claims **4** and **17** and dependent claims **5-13** and **18-26** to recite particular embodiments that we, in our business judgment, have currently determined to be commercially desirable. We have added new dependent claims **27-46** to further protect desirable embodiments.

In view of the Election/Restriction Requirement and the provisional election made by Mr. Weiss on June 19, 2006, we have cancelled claims **1-3** and **14-16**.

We will pursue the subject matter of the cancelled claims in one or more divisional applications.

Response to the Rejection of Claims 4-8, 12-13, 17-21, and 25-26 under 35 U.S.C. § 102(b)

The Examiner rejected previously presented independent claims **4** and **17** and dependent claims **5-8, 12-13, 18-21,** and **25-26** under 35 U.S.C § 102(b) as being anticipated by Silverman et al., U.S. Patent No. 5,136,501 (hereinafter Silverman). We respectfully submit that Silverman does not teach, suggest, nor disclose amended claims **4-8, 12-13, 17-21,** and **25-26.**

Specifically, independent claim **4** recites in part a method comprising:

> determining whether execution of a pending trade between a first trader and a second trader would exceed a warning limit; … and
>
> if execution of the pending trade would exceed the warning limit, processing the pending trade based on a specification of the first trader and a specification of the second trader, in which processing the pending trade results in one of a plurality of available outcomes including:

all of the pending trade being executed,
a portion of the pending trade being executed, and
a rejecting of the pending trade.

Silverman discloses a trading system in which "[e]ach of the [counterparties] in the system assigns … credit limits to the other [counterparties] in the system with which it is desired to trade," with each pair of counterparties having a "gross counterparty credit limit [that is] the minimum of the two credit limits between counterparties." Thereafter, the system trades a new order against standing orders and "will keep trading [the new order] until its all done." As Silverman further discloses, "if in the course of matching [the new order against the standing orders, the system] run[s] up against a credit limit which causes the gross counterparty credit limit to be exceeded, then the matching trade occurs up to the gross counterparty limit" and the remainder of the new order is then matched against other standing orders. As Silverman discloses, "each new order is traded to its maximum potential." (Silverman, column 2, lines 54-58; column 3, lines 18-60; column 18, line 21 to column 19, line 18; column 20, lines 21-27).

Accordingly, Silverman discloses a system whereby when a new order and a standing order between a first trader and a second trader exceeds the traders' gross counterparty credit limit, the system "automatically" executes the new order up to the gross counterparty credit limit. Notably and contrary to claim **4**, Silverman does not teach, suggest, nor disclose that "*if execution of the pending trade would exceed the warning limit, processing the pending trade based on a specification of the first trader and a specification of the second trader*", let alone there even being "*a specification of the first trader and a specification of the second trader*". In addition, Silverman does not teach, suggest, nor disclose that "*if execution of the pending trade would exceed the warning limit, ...[that the] processing [of] the pending trade results in one of a plurality of available outcomes including: all of the pending trade being executed, a portion of the pending trade being executed, and a rejecting of the pending trade.*" Again, Silverman discloses a system whereby when a pending trade exceeds a warning limit, the processing of the pending trade can only result in one available outcome: "*a portion of the pending trade being executed*" (i.e., the pending trade being executed up to gross counterparty credit limit).

Accordingly, because Silverman does not teach, suggest, nor disclose each of the limitations of claim **4**, we submit that claim **4**, in addition to claims **3-8** and **12-13**, which depend there from, are not anticipated by Silverman.

Turning to independent claim **17**, this claim recites limitations similar to claim **4** and as such, Silverman also fails to anticipate claim **17**, in addition to claims **18-21** and **25-26,** which depend there from, for the same reasons as set forth above for claim **4**.

Response to the Rejection of Claims 9-11 and 22-24 under 35 U.S.C. § 103(a)

The Examiner rejected previously presented dependent claims **9-11** and **22-24** under 35 U.S.C § 103(a) as being unpatentable over Silverman in view of Shepherd, U.S. Patent No. 5,970,479 (hereinafter Shepherd).

We respectfully submit that the Examiner has not made a *prima facie* case of obviousness under 35 U.S.C. § 103(a) with respect to claims **9-11** and **22-24**. Specifically, to establish a *prima facie* case of obviousness, the Examiner has the burden of showing, in part, that there is "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings"(MPEP § 2143). Notably, the Examiner must support, with objective evidence of record, the knowledge of one of ordinary skill in the art. In the Office Action, the Examiner merely asserted that it would have been obvious to one of ordinary skill in the art to modify Silverman in view of Shepherd "in order to give the parties and/or counterparties an alternative to automatic execution of all or a portion of the pending trade." However, the Examiner presented no objective evidence of record to support such a suggestion or motivation. Accordingly, we submit that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims **9-11** and **22-24** over Silverman in view of Shepherd.

In addition, we submit that Shepherd does not teach, suggest, nor disclose limitations of independent claims **4** and **17** not taught by Silverman and that Shepherd, alone or in combination with Silverman, thereby also fails to teach, suggest, or disclose claims **4** and **17**. Accordingly, because claims **9-11** and **22-24** depend from claims **4** and **17**, we submit that Silverman and Shepherd, alone or in combination, also fail to teach, suggest, or disclose claims **9-11** and **22-24**.

New Claims 27-46

New claims **27-46** depend from independent claims **4** and **17**. Accordingly, we submit that Silverman and Shepherd, alone or in combination, also fail to teach, suggest, or disclose these claims for the same reasons as set forth above.

Conclusion

Since Silverman and Shepherd fail to teach or suggest the invention as set forth in claims **4-13** and **17-46**, we submit that these claims are clearly allowable. Favorable reconsideration and allowance of these claims are therefore requested.

We earnestly believe that this application is now in condition to be passed to issue, and such action is also respectfully requested. However, if the Examiner deems it would in any way facilitate the prosecution of this application, the Examiner is invited to telephone our undersigned representative at 212-294-7733.

Respectfully submitted,

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